

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

Call to Order: By **CHAIRMAN RIC HOLDEN**, on January 22, 2001 at 3:00 P.M., in Room 422, Capitol.

ROLL CALL

Members Present:

Sen. Ric Holden, Chairman (R)
Sen. Pete Ekegren, Vice Chairman (R)
Sen. Mike Halligan (D)
Sen. Greg Jergeson (D)
Sen. Walter McNutt (R)
Sen. Linda Nelson (D)
Sen. Gerald Pease (D)
Sen. Corey Stapleton (R)
Sen. Jon Tester (D)
Sen. Tom Zook (R)

Members Excused: Sen. Arnie Mohl (R)

Members Absent: None.

Staff Present: Laramie Cumley, Committee Secretary
Doug Sternberg, Legislative Services

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SJ 4, 1/8/01 and SB 200,
1/9/01
Executive Action:

HEARING ON SJ 4

Sponsor: SEN. MIKE TAYLOR, SD 37, PROCTOR

Proponents: Janet Ellis, Montana Audubon
John Bloomquist, Montana Stockgrowers Association

Toby Day, Montana Wildlife Federation
Robin Cunningham, Fishing Outfitters Association of Montana
Nancy Schlepp, Montana Farm Bureau
Gordon Morris, Montana Association of Counties
Ralph Peck, Montana Department of Agriculture
Bob Stephens, Montana Grain Growers Association

Opponents: none

Opening Statement by Sponsor:

SEN. MIKE TAYLOR, SD 37, PROCTOR stated that this Joint Resolution is to urge the Federal Government to take control of weeds because they know no boundaries and they are not healthy for the environment. This also is to urge that all of the necessary organizations coordinate to address this problem.

Proponents' Testimony:

Janet Ellis, Montana Audubon remarked that this is a very positive step and she supported this Senate Joint Resolution.

John Bloomquist, Montana Stockgrowers Association supported SJ 4.

Toby Day, Montana Wildlife Federation supported the idea of possibly receiving funding for weed programs.

Robin Cunningham, Fishing Outfitters Association of Montana also supports this resolution because of the issue of local participation.

Nancy Schlepp, Montana Farm Bureau supported the language of this resolution.

Gordon Morris, Montana Association of Counties supports the reinforcement of what is already in place.

Ralph Peck, Montana Department of Agriculture stood in support of this resolution.

Bob Stephens, Montana Grain Growers Association stated that this is a problem that needs to be supported.

Opponents' Testimony: none

Questions from Committee Members and Responses:

SEN. GREG JERGESON asked if this was implying that the federal agencies do not devote any resources. **SEN. TAYLOR** replied no, there are some agencies that devote resources to weed control. The importance of participation would be urged in this program.

SEN. JERGESON asked if there were a number of programs that were participating that were not noticed. **SEN. TAYLOR** responded by stating that he was not aware of participation of the whole state. On a local level it was realized that there needed to be more participation from the Federal Government.

SEN. JERGESON went further to question about mill levy's for the state and who was participating. **SEN. TAYLOR** said that he was interested in this information although he was certain that most counties have funds for weed control.

SEN. MIKE HALLIGAN explained ideas that may be used to coordinate groups for weed control and how this may be specified. **SEN. TAYLOR** went further to say that this was only a resolution, therefore, it is only an idea. If this were a bill there could have been an opportunity to be more specific.

Closing by Sponsor:

SEN. TAYLOR respectfully closed SJ 4.

HEARING ON SB 200

Sponsor: **SEN. MIKE TAYLOR, SD 37, PROCTOR**

Proponents: **Gordon Morris, Montana Association of Counties**

Opponents: none

Opening Statement by Sponsor:

SEN. MIKE TAYLOR, SD 37, PROCTOR testified that SB 200 clarifies current law and defines that weed districts are responsible for any damages which occur pertaining to herbicides only. This explained gross negligence standards.

Proponents' Testimony:

Gordon Morris, Montana Association of Counties explained the insurance coverage for the county weed boards and the language of the bill in which " Political Subdivision" is discussed.

Opponents' Testimony: none.

Questions from Committee Members and Responses:

SEN. MIKE HALLIGAN questioned the language of "Political Subdivision" in the bill. **SEN. TAYLOR** explained that this means that "Political Subdivision" is part of the weed district, or could make them one in the same.

Doug Sternberg after examining the discussion, explained the present law and the technical explanation of "Political Subdivision"

SEN. HALLIGAN clarified that there are a number of consequences associated to "Political Subdivision"

SEN. COREY STAPLETON asked who benefits from this language. **SEN. TAYLOR** answered this was only included to ensure proper liability.

SEN. JON TESTER questioned the protection or coverage of these weed districts and if a member of a weed board would be liable for another board members' mistake. **Doug Sternberg** explained that the members of the weed board would not be liable.

SEN. TOM ZOOK agreed with **SEN. TESTER** and asked if there was greater protection under the "Political Subdivision" language or under 29-305.

SEN. TESTER asked for clarification of 29305 vs. this Legislation. **Mr. Morris** defined the liability coverage available for weed spraying operations in Montana and explained that this is limited to accidents which are "sudden and/or accidental". He also went further to say that this is the only insurance coverage that is available for a weed spraying operation. The weed board is not liable. This falls back on the County. An example of gross negligence was explained regarding a potato farm in Gallatin County in which the wind had carried the spray onto a potato crop. The farmer came to the county after several months for reimbursement only to find that there was nothing he could do about this because the time had passed.

SEN. ZOOK again clarified that if this bill changed the "potato" situation, what would be the result be if the weed board were a "Political Subdivision". **Mr. Morris** replied that as a political subdivision, insurance coverage could not be received for this kind of operation. Spraying activities are only covered through "sudden or accidental" guidelines on a county policy.

SEN. STAPLETON asked **Mr. Morris** if he was an opponent or proponent. **Mr. Morris** informed the committee that he agrees with the liability issues indicated in the bill despite the fact that the cooperation and the management of the discussed organizations such as the counties, weed boards, and the State of Montana are lacking.

Closing by Sponsor:

SEN. TAYLOR discussed the intent of this bill as being a way to solve some litigation issues and a way to find more immunity for weed boards. **SEN. HOLDEN** asked for clarifications from **SEN. TAYLOR** regarding the facts of SB 200.

EXECUTIVE ACTION ON SB 15

SEN. HALLIGAN asked for a brief explanation of the amendments for SB 15.

Doug Sternberg proceeded to explain the amendments to the bill regarding the deleted criminal trespass criteria, the language change of property to land, and additional language pertaining to sign posting or fencing.

Committee Discussion:

SEN. HOLDEN asked if SB 15 required a landowner to fence all land if he did not want to post it.

Doug Sternberg noted that the language requires one of three options, a landowner can sign, notice, or fence their land.

SEN. HOLDEN clarified that one of these three things has to be done.

Doug Sternberg answered yes, and also explained the consequences if a landowner did not comply with this law. **Mr. Sternberg** also discussed how SB 15 deals with railroad right of ways.

SEN. HALLIGAN inquired about leaving, "fenced" as an option instead of a mandatory requirement.

Doug Sternberg reported that this had been covered by the new language of SB 15.

SEN. HOLDEN commented that the amendments appear to be the same.

Doug Sternberg replied that some of the language was reinserted and there was no request from the committee to address these amendments, therefore he had not.

Motion: SEN. HALLIGAN moved that **AMENDMENTS BE ADOPTED.**

Discussion:

SEN. WALTER MCNUTT stated that if the amendments were adopted and the bill was tabled, in the event that SB 15 were taken off of the table the bill would be without the amendments anyway.

SEN. TESTER noted that the bill on the Missouri River Breaks was passed with the amendments attached.

Motion/Vote: SEN. HALLIGAN moved that **SB 15 AMENDMENTS BE ADOPTED. Motion carried unanimously.**

SEN. JERGESON added that the situation in which **SEN. AL BISHOP** asked **Mr. Greg Petesch** to explain amendments in a committee hearing was unfair.

Motion/Vote: SEN. ZOOK moved that **SB 15 BE TABLED. Motion carried 10-1 with Halligan voting no.**

EXECUTIVE ACTION ON SB 95

SEN. HOLDEN asked if SB 95 would allow hunters to enter upon private property with out permission.

Doug Sternberg explained the terms associated with SB 95, including present law and repeals.

SEN. MCNUTT expressed that the existing hunting laws have been around for years, have been exercised and it would be bad policy to disregard this existing law.

Motion: SEN. MCNUTT moved that **SB 95 BE TABLED.**

SEN. HALLIGAN discussed the enforcement of the criminal trespass laws as being fairly lenient near lands abutting forest service land. Although if SB 95 were to pass, this would cause a hunter

who was cited, to challenge the system and cause the whole law to go down.

Vote: Motion **carried unanimously.**

ADJOURNMENT

Adjournment: 4:00 P.M.

SEN. RIC HOLDEN, Chairman

LARAMIE CUMLEY, Secretary

RH/LC

EXHIBIT (ags17aad)